

FILED UNDER SEAL

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,
et al., ex rel. [UNDER SEAL],

Plaintiff,

v.

[UNDER SEAL],

DEFENDANT.

Civil Action No. 18-cv-3583

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The United States' Notice of Election to Decline Intervention

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
ex rel. BETTY JEAN SWARTZ,

Plaintiff-Relator,

v.

CELGENE CORPORATION,

Defendant.

Civil Action No. 18-cv-3583

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ORDER

AND NOW, on this _____ day of _____, 2020, the United States having declined to intervene in this action under the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the Court rules as follows:

IT IS ORDERED that:

1. The seal be lifted on the complaint and served upon the defendant by the relator;
2. All other contents of the Court's file in this action remain under seal and not be made public or served upon the defendant, except for this Order and the Government's Notice of Election to Decline Intervention, which the relator will serve upon the defendant only after service of the complaint;
3. The seal be lifted as to all other matters occurring in this action after the date of this Order;
4. The parties shall serve all pleadings and motions filed in this action, including supporting memoranda, upon the United States, as provided for in 31 U.S.C. § 3730(c)(3). The United States may order any deposition

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transcripts and is entitled to intervene in this action, for good cause, at any time;

5. The parties shall serve all notices of appeal upon the United States;
6. All orders of this Court shall be sent to the United States; and
7. Should the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, the Court will solicit the written consent of the United States before ruling or granting its approval;
8. The Clerk shall serve a copy of this Order only on counsel for the United States and counsel for Relator.

BY THE COURT:

Berle M. Schiller, J.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,
ex rel. BETTY JEAN SWARTZ,

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The United States' Notice of Election to Decline Intervention

Under the False Claims Act, 31 U.S.C. § 3730(b)(4)(B), the United States of America notifies the Court of its decision not to intervene in this action.

Although the United States declines to intervene, the Government respectfully refers the Court to 31 U.S.C. § 3730(b)(1), which allows the relator to maintain the action in the name of the United States; providing, however, that the “action may be dismissed only if the court and the Attorney General give written consent to the dismissal and their reasons for consenting.” *Id.* Therefore, the United States requests that, should either the relator or the defendant propose that this action be dismissed, settled, or otherwise discontinued, this Court solicit the written consent of the United States before ruling or granting its approval.

Furthermore, under 31 U.S.C. § 3730(c)(3), the United States requests that all pleadings filed in this action be served upon the United States; the United States also requests that orders issued by the Court be sent to the Government’s counsel. The United States reserves its right to order any deposition transcripts, to intervene in

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this action, for good cause, at a later date, and to seek the dismissal of the relator's action or claim. The United States also requests that it be served with all notices of appeal.

Finally, the Government requests that the relator's complaint, this Notice, and the attached proposed Order be unsealed. The United States requests that all other papers on file in this action remain under seal because in discussing the content and extent of the United States' investigation, such papers are provided by law to the Court alone for the sole purpose of evaluating whether the seal and time for making an election to intervene should be extended.

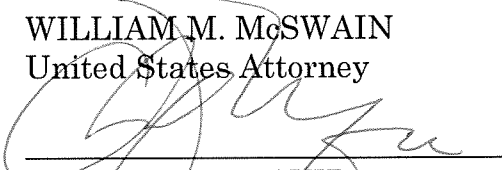
A proposed order accompanies this notice.

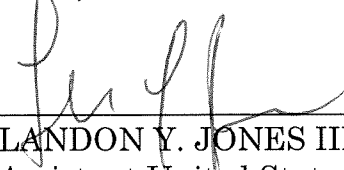
Dated: February 28, 2020

Respectfully submitted,

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Assistant Attorney General

WILLIAM M. McSWAIN
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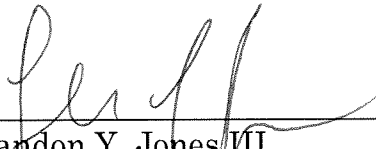
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CERTIFICATE OF SERVICE

I hereby certify that on this date a copy of the foregoing Notice of Election to Decline Intervention and Proposed Order was sent by United States mail, postage prepaid, to the following counsel for Relator:

Gavin P. Lentz
Bryan R. Lentz
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February 28, 2020



Landon Y. Jones III
Assistant United States Attorney